

WHAT TRUMP MEANS FOR ABORTION ACCESS

by Alice Cartwright, University of California, San Francisco, Ushma Upadhyay, University of California, San Francisco, Monica McLemore, University of California, San Francisco

During his campaign, President Donald Trump emphasized that his main goals regarding abortion would be to nominate anti-choice justices to the Supreme Court to overturn *Roe v. Wade*, make the Hyde Amendment “permanent law,” end later abortions, and defund Planned Parenthood. He also stated at one point that if abortion were to become illegal, there should be “some form of punishment” for women having the procedure.

Before abortion became legal across the U.S. in 1973 through the Supreme Court case *Roe v. Wade*, an estimated 1.2 million women per year sought illegal abortions. Many thousands of women died or suffered severe injuries as a result. Today, legal abortion is safe. Recent research estimates that less than [one quarter of one percent of abortions](#) result in major complications.

OVERTURNING ROE V. WADE

An anti-abortion justice is likely to be confirmed to fill the late Justice Antonin Scalia’s seat. This would return the Court to the same split on the legality of abortion as it was before his death (5-4). This makeup of the Court likely lacks the votes to overturn *Roe*.

However, if Trump is able to nominate and confirm two anti-choice justices during his presidency, *Roe* may be overturned. States would then have the ability to make abortion illegal, even in cases of rape, incest, and when it is medically necessary to protect the health or life of the woman. Additionally, federal laws could be passed that would further restrict abortion access, such as a ban on nearly all abortions or a ban at 20 weeks.

FEDERAL RESTRICTIONS ON ABORTION ACCESS

Currently federal funding cannot be used to pay for abortions except in rare cases because funding is banned through a “rider” attached to other bills that Congress must approve annually. Under a Trump administration, this rider, the Hyde Amendment, could become permanent law.

Such a law would mean a permanent ban on federal funding for abortion services through Medicaid and any other federal government health plans. This could also lead to bans on abortion coverage for any plan offered through the Affordable Care Act.

WHAT EXPERTS SAY:

“Targeting and restricting access to abortion care isn’t new, but we now face an era that may further increase restrictions and further limit women’s ability to decide whether and when to become pregnant. Access to the full spectrum of women’s reproductive health services is essential to women’s overall health and well-being, and we must continue to advocate for all women.”

– Professor Susan F. Wood
sfwood@gwu.edu
(202-994-4171)

“Women already face considerable barriers to obtaining an abortion. Most women are able to overcome these barriers, but some are not. Women who are not able to overcome these barriers tend to be the most economically vulnerable. Further restricting abortion is likely to have adverse consequences for women’s health and well-being.”

– Associate Professor Sarah CM Roberts
sarah.roberts@ucsf.edu
(510-986-8962)

“Defunding Planned Parenthood, in a mis-informed effort to reduce abortion, would leave millions of people without access to basic preventive care. Communities across the country rely on Planned Parenthood to provide affordable contraception, cancer screening, and prevention and treatment for sexually transmitted infections, often for patients who have nowhere else to turn.”

– Assistant Professor Debra Stulberg
stulberg@uchicago.edu
(773-834-1356)

STATE RESTRICTIONS ON ABORTION ACCESS

Legal landscape in the states: For over forty years, the Supreme Court has held that a woman has a constitutional right to access abortion. In 1992, the Court reaffirmed this in *Planned Parenthood v. Casey*, holding that states may not ban abortion prior to viability, and abortion restrictions which pose an undue burden on access to care are unconstitutional. However, states continued to pass restrictions on abortion, including over 300 from 2010 to 2016.

The “undue burden” legal standard did not provide courts with clear guidance until recently, when the Supreme Court issued its decision in *Whole Woman’s Health v. Hellerstedt*. In that case, the Court reaffirmed that access to abortion care is a fundamental constitutional right and clarified that the undue burden standard provides robust protections for abortion access.

Looking forward: State legislators report [feeling emboldened](#) to pass new abortion restrictions with the election of Donald Trump. In December 2016, Texas passed a law that will require burial or cremation of embryonic fetal tissue after an abortion, regardless of a woman’s personal wishes or beliefs. This law is temporarily blocked by the courts as of January 27, 2017. Ohio and Kentucky are the most recent states to pass a 20-week ban on abortion. 17 states have bans on abortion [after 20 weeks in effect](#).

This is in direct violation of *Roe v. Wade*, which only allows bans after viability – often interpreted to mean about 24 weeks – as long as there are exceptions to protect a woman’s health or life.

STATE PROTECTIONS ON ABORTION ACCESS

Some states have moved to introduce and enact pro-active policies around access to abortion. These include laws that protect the [confidentiality](#) of the patient-provider relationship, expanding the types of healthcare providers who can [provide abortion](#) beyond physicians, and expanding access to medication abortion through telemedicine. States have also stopped enforcing laws restricting abortion that have no demonstrated medical benefit. States also can elect to use state Medicaid funds for coverage of abortion despite the ban on use of federal funds.

IMPACT OF ABORTION RESTRICTIONS

Restrictions on abortion have important implications for women’s health.

- Without access to safe legal abortion services, women may [pursue unsafe options](#) to induce abortion without medical guidance, as in other countries where abortion is illegal.
- Women who are denied an abortion and carry to term [experience many more health risks](#) and [short-term adverse psychological outcomes](#) than women who receive a wanted abortion. They are also more likely to stay with a [violent partner longer](#).
- Currently, 90 percent of U.S. counties [do not have a known abortion provider](#). If more clinics are forced to close, people seeking abortion may have to travel [hundreds of miles](#), even [out of their home state](#), to obtain abortion.
- Restrictions on abortion can [increase costs](#) for women and lead to more expensive [later procedures](#) if financial and logistical barriers force them to delay seeking care.
- Restrictions can also force women to carry unwanted pregnancies to term.

For more information, contact:

Alice Cartwright

alice.cartwright@ucsf.edu

(510) 986-8927

Ushma Upadhyay

ushma.upadhyay@ucsf.edu

(510) 986-8946

Monica McLemore

monica.mclemore@ucsf.edu

(415) 200-6097